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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/679,222

10/03/2003

Gaston S. Ormazabal

03-1510

3274

25537 7590 01/15/2009

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EXAMINER

JOHNSON, CARLTON

ART UNIT

PAPER NUMBER

2436

NOTIFICATION DATE

DELIVERY MODE

01/15/2009

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patents@verizon.com

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/679,222

Applicant(s)

ORMAZABAL ET AL.

Examiner

CARLTON V. JOHNSON

Art Unit

2436

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 23 December 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/Nasser G Moazzami/
Supervisory Patent Examiner, Art Unit 2436

/C. V. J./
Examiner, Art Unit 2436

Response to Remarks

The amended claims will not be entered since the scope of Claim 1 and its associated dependent claims has been changed.

Examiner Position

The arguments were not persuasive in overcoming the currently rejected claims.

1. Claims 2, 4 - 6, 10 - 12, 18, 19, 22 - 24, 28, 29 are allowable. Claims 2, 4, 10, 18, 22, 28 have been rewritten in independent form including all of the limitations of the base claims and any intervening claims and therefore are allowable. Claims 5, 6, 11, 12, 19, 23, 24, 29 are allowable due to dependence on an allowable base.

Applicant's previous arguments, see Applicant Arguments/Remarks Made in an Amendment, filed January 31, 2008, with respect to the rejection(s) of claim(s) 2, 4, 10, 18, 22, 23, 28, 29 under 35 U.S.C. 102(e) as being anticipated by Katz et al. (US PG PUB No. 20040039938) and under 35 U.S.C. 103(a) as being unpatentable over Katz-McClure and further in view of McLampy et al. (US PG PUB No. 20020112073) have been fully considered and were persuasive. The rejection(s) were previously withdrawn.

In addition Applicant has been informed that Claim 30 does not include the limitations of the base claims present in the other proposed independent claims. If rewritten in a similar form, claim 30 will be in allowable form and is allowed. Applicant has not rewritten claim 30 in independent form. Therefore, Claim 30 is not allowable in its present form.

Katz discloses controlling the opening and closing of a port in conjunction with a session initiation and session termination process. The Katz prior art discloses a port opening on the basis of detecting a communications session initiation and port closings in conjunction with session closings or termination. (see Katz paragraph [0027], lines 1-9; paragraph [0033], lines 5-11) Katz discloses communications for network security and the concept of opening and closing ports in conjunction with a session initiation procedure and session termination procedure to create a communications structure equivalent to a pinhole. The session initiation is in conjunction with the opening a port and session termination is in conjunction with closing a port. The Katz prior art discloses monitoring the operation a system to reach a determination for a delay value in the opening and closing ports (session communications interface).

The rejection of the dependent claims (non allowable claims) is based on the rejection of the independent claims and the rejection of the dependent claims' additional claim limitations.

A delay is defined as the time period between two events. Namely, for the opening of a port event, the delay is the time period between a closed port state and an open port state. And, for the closing of a port event, the delay is the time period between an open port state and a closed port state. The Katz prior art discloses a time calculation for opening a port and closing a port. This time calculation includes a time delay portion calculation. Katz discloses the calculation of multiple types of delay and an opening and closing delay is well known in the art. (see Katz paragraphs [0011] and [0012]: multiple types of delay)

In order to adjust a value, the current state of a value namely the delay time (time period between closed and opened states or between opened and closed states) must first be determined, and then the value can be adjusted. The Katz prior art discloses the determination of a port opening time period and a port closing time period. The delay value is the time period for a transition from one state to the next state.

The Katz prior art discloses a time stamp for communications that pass through a communications session (session signaling) interface. The opening of a port is a communications initiation function and is the first signal to pass through a communications session interface. (see Katz paragraph [0014], lines 4-9; paragraph [0016], lines 5-10: time stamp communications processing; paragraph [0013], lines 5-9; paragraph [0030], lines 1-4: session signaling, port opening, port closing, communications session established, terminated))